THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, STATE OF CONNECTICUT HISTORIC PRESERVATION OFFICE, MOHEGAN TRIBE OF INDIANS OF CONNECTICUT, STATE OF CONNECTICUT DEPARTMENT OF HOUSING, AND THE VILLAGE AT SHANTOK HILL DEVELOPMENT, LLC, AND VIZION ENTERPRISES

REGARDING PROPOSED NEW CONSTRUCTION OF THE VILLAGE, UNCASVILLE, NEW LONDON COUNTY, CONNECTICUT

WHEREAS, The Village at Shantok Hill Development, LLC (for the purpose of this MOA will be referred to as the Applicant) proposes to construct a 120-unit rental apartment community complex, "The Village" on approximately 12.2 acres of undeveloped private land, and referred to as "Parcel A" along the Norwich New London Turnpike (Route 32) in the Uncasville section of Montville; and

WHEREAS, Applicant has applied for financial assistance through the Lender, Metropolitan Funding Corporation to the U.S. Department of Housing and Urban Development (HUD) in the form of a Federal Housing Administration (FHA) mortgage insurance under the Multifamily Section 221(d)(4) New Construction Loan Program; and

WHEREAS, the issuance of the FHA mortgage insurance constitutes an undertaking under Section 106 of the National Historic Preservation Act (16 USC § 470(f)); and

WHEREAS, the State of Connecticut is acting herein by the State Historic Preservation Office (SHPO) which is located within the Department of Economic And Community Development (DECD) acting herein by the Deputy State Historic Preservation Officer, duly authorized, and the Advisory Council on Historic Preservation (ACHP); and

WHEREAS, HUD, in accordance with 36 CFR Part 800.4(a)(1) and under consultation with the SHPO, has defined the undertaking's area of potential effect (APE) as the boundaries of Parcel A (the Project Site), reflecting the area potentially subject to physical alterations by the Proposed Action and further encompasses Parcel B due to potential indirect effects to historic properties, as illustrated in the *Revised TCP Core Map* in Appendix A; and

WHEREAS, HUD has considered the results of surveys and investigations to identify historic properties within the APE inclusive of Phase IA, Phase IB and Phase II Archaeological Assessments and Reconnaissance Surveys prepared by Historical Perspectives, Inc., an independent review conducted by Archaeological and Historical Service, Inc., and the completed Environmental Impact Evaluation/Environmental Assessment prepared in accordance with the National Environmental Policy Act and the Connecticut Environmental Policy Act; and

WHEREAS, HUD in consultation with the SHPO, the Mohegan Tribe, and the other consulting parties, has determined that the APE, contains the core of a Traditional Cultural

Property (TCP), known as the Mohegan Hill Traditional Cultural Property (MHTCP), of religious and cultural significance to the Mohegan Tribe and;

WHEREAS, HUD, in accordance with 36 CFR Part 800.4(c)(1) and in consultation with SHPO, the Mohegan Tribe, and the other consulting parties has determined that the core of the TCP is eligible for inclusion in the National Register of Historic Places (NHRP); and

WHEREAS, HUD has applied the criteria of adverse effects in accordance with 36 CFR § 800.5(a)(1), has considered the opinions of the consulting parties, and has determined that the undertaking will have an adverse effect on the TCP Core; and

WHEREAS, HUD has consulted with the Mohegan Tribe and invited the Tribe to sign this Memorandum of Agreement (MOA) as an invited signatory; and

WHEREAS, HUD has consulted with the Applicant regarding the effects of the undertaking on historic properties and invited them to sign this MOA as an invited signatory; and

WHEREAS, HUD has consulted with the staff of the State of Connecticut Department of Housing (DOH) as successor-in-interest to DECD for affordable housing programs pursuant to Public Acts 12-1 and 13-234 concerning: i) the prospect of the Applicant applying for financial assistance administered by DOH for the development of the Project Site, which funding could consist of Home Investment Partnership Program ("HOME") funds administered by DOH, and ii) regarding the effects of the undertaking on historic properties, and has invited DOH to sign this MOA as an invited signatory; and

WHEREAS, HUD, in consultation with the SHPO, the Mohegan Tribe, Applicant, and the consulting parties has identified measures to mitigate the adverse effects on historic properties; and

WHEREAS, HUD has notified the ACHP regarding its intent to prepare an MOA to satisfy its Section 106 responsibilities pursuant to 36 CFR Part §800.6 (a)(1), and the ACHP has accepted the invitation, pursuant to 36 CFR §800.6(a)(1)(iii); and

WHEREAS, all references to time periods in this MOA are in calendar days and notices and other written communications may be submitted by e-mail; and

NOW, THEREFORE, HUD, SHPO, and the ACHP agree that by participating in the execution of this agreement, the agencies will thereby satisfy the requirements of consultation and review under Section 106 of the National Historic Preservation Act and that the undertaking shall proceed in accordance with the stipulations below.

STIPULATIONS

To the extent of its legal authority and in coordination with the SHPO, ACHP, the Mohegan Tribe, DOH, and the Applicant, HUD will require the following measures be implemented:

I. MITIGATION MEASURES

- A. LANDSCAPE DESIGN AND PROTECTIVE ELEMENTS Applicant, in consultation with HUD, SHPO and the Mohegan Tribal Historic Preservation Officer (THPO), will fund the re-design of the landscape to incorporate protective measures in areas where historic properties have been identified by the Mohegan THPO as having religious and cultural significance to the Mohegan Tribe. The landscape design will incorporate the following treatments of specific features of the Core TCP, as illustrated in the *Figure 4 Survey Map* in Appendix A. These measures must be completed prior to the issuance of a Firm Commitment from HUD. Reasonable notice shall be afforded to the Mohegan THPO, SHPO, and/or a consulting qualified archaeologist (QA) to be present during the following activities:
 - 1. The use of an encapsulation technique to ensure preservation protection for <u>feature 13</u> which will be subject to burial at depths of four to six feet beneath the proposed finished grade. Encapsulation shall be conducted and funded by the Applicant. (Appendix C: Preservation & Protection of Mohegan Indian Features Report, TMG Architects, LLC).
 - 2. The use of minimal protective measures of leaf litter. Shrub and tree plantings of Viburnum, Red Cedar or any other approved native species for <u>features 6, 7, and 8</u>. (Appendix C: Preservation & Protection of Mohegan Indian Features Report, TMG Architects, LLC).
 - 3. The use of shrub and tree plantings of Viburnum, Red Cedar or any other approved native species, to be planted within a soil berm adjacent to <u>feature 9</u> where burial in place is not feasible. (Appendix C: Preservation & Protection of Mohegan Indian Features Report, TMG Architects, LLC).
 - 4. The use of minimal protective measures of leaf litter to cover the features into the natural landscape, and native shrub plantings of Leucothoe (evergreen) and Mountain Laurel for a vegetation enclosure for <u>features 4 and 5</u>. The unique outcropping and setting of <u>feature 3</u> will not permit shrub coverage, so a minimal treatment of natural leaf litter cover can be applied. (Appendix C: Preservation & Protection of Mohegan Indian Features Report, TMG Architects, LLC).
- B. BLASTING MINIMIZATION The Applicant will develop a blasting plan for construction that will detail the following; approximate charge depth and cubic yards disturbed; diameter and spacing of boreholes; approximate charge weight loaded per borehole; and preliminary blasting pattern that will be used for the construction of the roadways, detention basins, foundations and utility trenching.

The Applicant will afford a pre-blast inspection of all previously identified stone features and any structures located within two hundred and fifty (250) feet of the blasting zone, for seismic monitoring of vibration levels during blasting operations to ensure compliance with all Federal, state and local regulations. A seismograph shall be

positioned near the Fort Hill Mohegan Elders' Community for monitoring of seismic activities during blasting. The Applicant shall take into consideration any comments received from HUD, SHPO and the Mohegan THPO as appropriate. Prior to blasting, HUD will review the plan for disturbance potential to the stone features.

- C. CONSERVATION EASEMENT Applicant, in consultation with HUD, SHPO, and the Mohegan Tribe, following the execution of this MOA and prior to the issuance of a Firm Commitment from HUD, shall develop and execute the following; 1) Right to Access agreement that affords Tribal access to the Parcel A stone features and that portion of Parcel B that includes the conservation easement, and 2) permanent conservation easement held in perpetuity that details an agreed upon delineated buffer limited to that area of Parcel B encompassing the Stone Fort Archaeological Site. The easement shall consider the SHPO's recommended Easement/Archaeological Preserve Boundary, which is based upon the June 2013 field consultation, and indicates a 10 foot exterior buffer extending from the outer edges of the stone fort wall remains, inclusive of the bastions at the corners of the Stone Fort. (The *Preliminary Easement/Archaeological Preserve Boundary Map* is included in Appendix A).
 - 1. The Right to Access Parcel A and the permanent conservation easement agreement on Parcel B shall be prepared independently of this agreement by the Applicant, and be submitted for review and comment by HUD, SHPO and the Mohegan Tribe following the execution of this MOA, and prior to the issuance of a Firm Commitment from HUD (Appendix D: Model Conservation Easement).
 - 2. Prior to the issuance of a Firm Commitment from HUD, the Applicant, in consultation with HUD, SHPO, the Mohegan Tribe, the Connecticut Native American Heritage Advisory Council, and CT Office of State Archaeologist (OSA) shall seek approval for State designation for the Stone Fort Archaeological Site as a State Archaeological Preserve, pursuant to Connecticut General Statute Section 10-384. In the event, the request for State designation is subsequently denied by the CT Historic Preservation Council, the stipulation as described herein would still be satisfied. The placement of State Preserve and easement recognition signage will be coordinated with the Applicant, SHPO, the Mohegan THPO and the OSA.
- D. ARCHAEOLOGICAL MONITORING HUD and SHPO have hereby agreed that construction activities conducted in designated areas with the potential to contain unidentified archaeological resources shall be monitored by a QA retained by the Applicant, who meets the Secretary of the Interior's Professional Qualification Standards for Archaeology (Appendix B: 36 CFR § 61), and the Applicant shall provide a report documenting the results of archaeological monitoring to HUD and SHPO.

II. POST-REVIEW DISCOVERIES

A. In the event that potentially significant unidentified archaeological sites, other potential historic properties, human remains or unanticipated effects on historic properties are

discovered, HUD shall implement the *Discovery Protocol* included as Appendix E of this MOA. The Applicant's contractor shall immediately cease activities in the vicinity of the discovery. Personnel should take all reasonable measures to avoid or minimize harm to the archaeological find(s) and/or human remains to avoid or minimize further unanticipated effects.

B. The person or persons encountering such properties or effects shall immediately notify HUD at 860-240-9772 and SHPO at 860-256-2761 for consultation with the Mohegan THPO. Construction in the area of such sites or effects shall not resume until HUD, SHPO, and the Mohegan THPO determine that the requirements of 36 CFR §800.13(b)(3) have been satisfied.

III. MONITORING AND REPORTING

Each year following the execution of this MOA until it expires or is terminated, HUD shall provide all parties to this MOA and the ACHP an annual summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in HUD's efforts to carry out the terms of this MOA.

IV. DURATION OF AGREEMENT

- A. This agreement will be null and void if its terms are not carried out within 36 months from the date of execution.
- B. If any signatory to this MOA determines that its terms will not or cannot be carried out or that an amendment to its terms must be made, that party shall immediately consult with the other parties to develop an amendment to this MOA pursuant to 36 CFR §800.6(c)(7) and §800.6(c)(8).

V. DISPUTE RESOLUTION

Should any signatory or concurring party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, HUD shall consult with such party to resolve the objection. If HUD determines that such dispute cannot be resolved:

A. HUD will forward all documentation relevant to the dispute, including HUD's proposed resolution, to the ACHP in accordance with 36 CFR §800.11(e). The ACHP shall provide HUD with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, HUD shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties to the MOA, and provide them with a copy of this written response. HUD will then proceed according to its final decision.

- 1. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, HUD may make a final decision on the dispute and proceed accordingly.
- B. HUD's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.
- C. If HUD cannot fulfill the terms of this MOA, it shall not take or sanction any action or make any irreversible commitment that would result in an adverse effect with respect to NRHP-eligible or listed historic properties covered by this MOA or that would foreclose ACHP's consideration of modifications or alternatives to the Undertaking that could avoid or mitigate the adverse effect until the comment process has been completed.

VI. AMENDMENTS

Any signatory to this MOA may propose to HUD that the MOA be amended, whereupon HUD will consult with all signatories to the MOA to consider such an amendment. 36 CFR §800.6(c)(1) shall govern the execution of any such amendment. The signatures of all the signatories shall be required for any amendment hereto to be effective.

VII. TERMINATION AND NONCOMPLIANCE

- A. If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation VI above.
- B. If within thirty (30) days an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories. Once the MOA is terminated, and prior to work continuing on the undertaking, HUD must either (a) seek to resolve the adverse effects pursuant to 36 CFR §800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR §800.7. HUD shall notify the signatories as to the course of action it will pursue.

VIII. EXECUTION OF THE MEMORANDUM OF AGREEMENT

Execution of this MOA by HUD, SHPO, and the ACHP and implementation of its terms are evidence that HUD has taken into account the effects of this undertaking on historic properties, and afforded the ACHP an opportunity to comment. HUD has therefore satisfied its responsibilities under the NHPA and its implementing regulations. HUD must submit a copy of the executed MOA, along with the documentation specified in Sec. 800.11(f), to the ACHP prior to approving the undertaking in order to meet the requirements of section 106. 36 CFR § 800.6(b)(1)(iv).

THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

STATE OF CONNECTICUT HISTORIC PRESERVATION OFFICE, MOHEGAN TRIBAL GOVERNMENT,

STATE OF CONNECTICUT DEPARTMENT OF HOUSING, AND THE VILLAGE AT SHANTOK HILL DEVELOPMENT, LLC, AND VIZION ENTERPRISES

REGARDING PROPOSED NEW CONSTRUCTION OF THE VILLAGE, UNCASVILLE, NEW LONDON COUNTY, CONNECTICUT

EXECUTED:

SIGNATORY

UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Syzanne Piacentini

Director, CT Multifamily Program Center

HUD Hartford Field Office

THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,

STATE OF CONNECTICUT HISTORIC PRESERVATION OFFICE, MOHEGAN TRIBAL GOVERNMENT,

STATE OF CONNECTICUT DEPARTMENT OF HOUSING, AND THE VILLAGE AT SHANTOK HILL DEVELOPMENT, LLC, AND VIZION ENTERPRISES

REGARDING PROPOSED NEW CONSTRUCTION OF THE VILLAGE, UNCASVILLE, NEW LONDON COUNTY, CONNECTICUT

Date: 8/29/13

SIGNATORY

STATE OF CONNECTICUT HISTORIC PRESERVATION OFFICE

Daniel T Forract

State Historic Preservation Officer

THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,

STATE OF CONNECTICUT HISTORIC PRESERVATION OFFICE, MOHEGAN TRIBAL GOVERNMENT,

STATE OF CONNECTICUT DEPARTMENT OF HOUSING, AND THE VILLAGE AT SHANTOK HILL DEVELOPMENT, LLC, AND VIZION ENTERPRISES

REGARDING PROPOSED NEW CONSTRUCTION OF THE VILLAGE, UNCASVILLE, NEW LONDON COUNTY, CONNECTICUT

SIGNATORY

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Ву: _	Tabmou	Date: 10/29/13	
	John Fowler		
\wedge	Executive Director, Advisory Council on Historic Preservation		

THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,

STATE OF CONNECTICUT HISTORIC PRESERVATION OFFICE, MOHEGAN TRIBAL GOVERNMENT,

STATE OF CONNECTICUT DEPARTMENT OF HOUSING, AND THE VILLAGE AT SHANTOK HILL DEVELOPMENT, LLC, AND VIZION ENTERPRISES

REGARDING PROPOSED NEW CONSTRUCTION OF THE VILLAGE, UNCASVILLE, NEW LONDON COUNTY, CONNECTICUT

INVITED SIGNATORY

MOHEGAN TRIBAL GOVERNMENT

By: Acmes Cause Date: 9/09/13

On Behalf of the Mohegan Tribal Council

THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,

STATE OF CONNECTICUT HISTORIC PRESERVATION OFFICE, MOHEGAN TRIBE OF INDIANS OF CONNECTICUT, STATE OF CONNECTICUT DEPARTMENT OF HOUSING, AND THE VILLAGE AT SHANTOK HILL DEVELOPMENT, LLC, AND VIZION ENTERPRISES

REGARDING PROPOSED NEW CONSTRUCTION OF THE VILLAGE, UNCASVILLE, NEW LONDON COUNTY, CONNECTICUT

INVITED SIGNATORY

The signing of this MOA by DOH does not constitute an implied or tacit consent by DOH to finance the development of the Project Site by the Applicant.

STATE OF CONNECTICUT DEPARTMENT OF HOUSING

Evonne M. Klein

Commissioner

_ Date:

THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,

STATE OF CONNECTICUT HISTORIC PRESERVATION OFFICE, MOHEGAN TRIBAL GOVERNMENT,

STATE OF CONNECTICUT DEPARTMENT OF HOUSING, AND THE VILLAGE AT SHANTOK HILL DEVELOPMENT, LLC, AND VIZION ENTERPRISES

REGARDING PROPOSED NEW CONSTRUCTION OF THE VILLAGE, UNCASVILLE, NEW LONDON COUNTY, CONNECTICUT

INVITED SIGNATORY

THE VILLAGE AT SHANTOK HILL DEVELOPMENT, LLC

Applicant

THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

STATE OF CONNECTICUT HISTORIC PRESERVATION OFFICE, MOHEGAN TRIBAL GOVERNMENT,

STATE OF CONNECTICUT DEPARTMENT OF HOUSING, AND THE VILLAGE AT SHANTOK HILL DEVELOPMENT, LLC, AND VIZION ENTERPRISES

REGARDING PROPOSED NEW CONSTRUCTION OF THE VILLAGE, UNCASVILLE, NEW LONDON COUNTY, CONNECTICUT

INVITED SIGNATORY

VIZION ENTERPRISES

Drzislay Coric, Esq.

Property Owner

THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,

STATE OF CONNECTICUT HISTORIC PRESERVATION OFFICE, MOHEGAN TRIBAL GOVERNMENT,

STATE OF CONNECTICUT DEPARTMENT OF HOUSING, AND THE VILLAGE AT SHANTOK HILL DEVELOPMENT, LLC, AND VIZION ENTERPRISES

REGARDING PROPOSED NEW CONSTRUCTION OF THE VILLAGE, UNCASVILLE, NEW LONDON COUNTY, CONNECTICUT

CONCURRING PARTY

NEIGHBORWORKS NEW HORIZONS

By: Sele Myrule Date: 9/9/2013

Executive Director

THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

STATE OF CONNECTICUT HISTORIC PRESERVATION OFFICE, MOHEGAN TRIBAL GOVERNMENT,

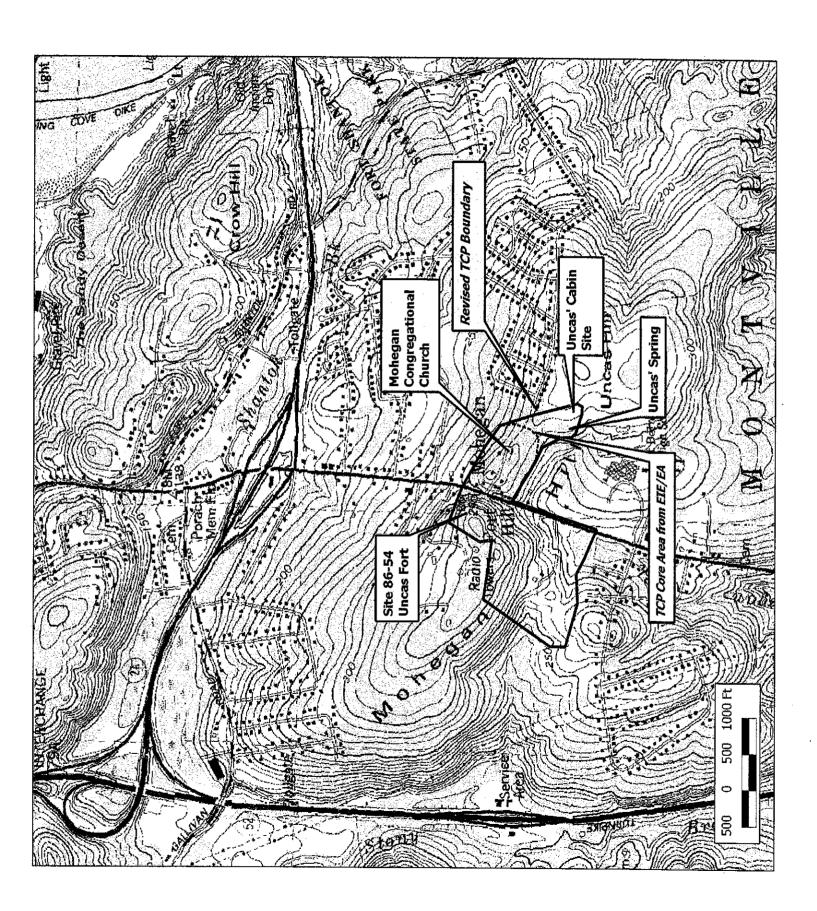
STATE OF CONNECTICUT DEPARTMENT OF HOUSING, AND THE VILLAGE AT SHANTOK HILL DEVELOPMENT, LLC, AND VIZION ENTERPRISES

REGARDING PROPOSED NEW CONSTRUCTION OF THE VILLAGE, UNCASVILLE, NEW LONDON COUNTY, CONNECTICUT

TOWN OF MONTVILLE

By: ______ Date: ______

Ronald K. McDaniel Mayor



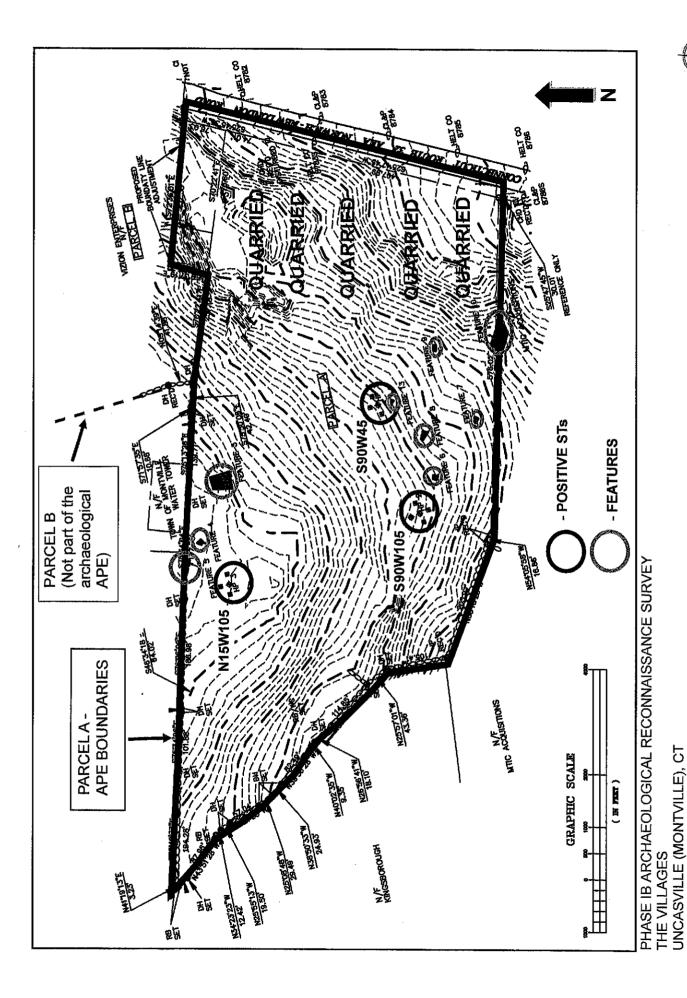


FIGURE 4: Plan of Positive STs with Arrays and Feature Locations. Base map prepared by Gerwick-Mereen, LLC, December 12, 2011. Modified by HPI, December 27, 2011.



